

**COEUR D'ALENE, TUESDAY, MAY 1, 2012 AT 8:50 A.M.**

**IN THE SUPREME COURT OF THE STATE OF IDAHO**

**BERKSHIRE INVESTMENTS, LLC, an )  
Idaho limited liability company; THOMAS G. )  
MAILE, IV and COLLEEN BIRCH-MAILE, )  
husband and wife, )**

**Plaintiffs-Counterdefendants-Appellants, )**

**v. )**

**CONNIE WRIGHT TAYLOR, f/k/a )  
CONNIE TAYLOR, an individual; DALLAN )  
TAYLOR, an individual; R. JOHN )  
TAYLOR, an individual; CLARK AND )  
FEENEY, a partnership; PAUL T. CLARK, )  
an individual; THEODORE L. JOHNSON )  
REVOCABLE TRUST, an Idaho revocable )  
trust; JOHN DOES I-X; and ALL PERSONS )  
IN POSSESSION OR CLAIMING ANY )  
RIGHT TO POSSESSION, )**

**Defendants-Counterclaimants- )  
Respondents )**

**Docket No. 38599**

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Honorable Richard D. Greenwood, District Judge.

Thomas G. Maile, IV and Troupis Law Office, PA, Eagle, for appellants.

Moffatt Thomas Barrett Rock & Fields, Chartered, Boise, and Henderson Law, Vancouver, Washington, for respondents.

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This is the third appeal to the Idaho Supreme Court stemming from a 2002 real estate transaction between Thomas Maile and Colleen Birch-Maile (the Mailes) and the Theodore L. Johnson Revocable Trust (the Trust). The Mailes formed Berkshire Investments, LLC for the purpose of developing the subject property. Residual beneficiaries of the Trust—Reed, Dallan, and R. John Taylor (the Taylors)—challenged the sale, and the district court initially dismissed the suit, finding they lacked standing. The Supreme Court overturned that decision and

remanded the case, at which point the district court found the transaction void because the trustees who closed the sale were also beneficiaries and, thus, had a conflict of interest requiring court approval of the sale.

While the first appeal was pending, the Taylors executed a Disclaimer, Release, and Indemnity Agreement (the Disclaimer), in which they disclaimed all interests in the Trust except their interest in the lawsuit against the Mailes. The Disclaimer also appointed the Taylors as trustees, and the magistrate court presiding over the probate proceedings of the settlor of the Trust entered an order to that effect.

The Mailes appealed the district court's finding that the sale was void, arguing—among other things—that the Disclaimer divested the Taylors of standing as beneficiaries. However, the Supreme Court found that the Disclaimer preserved the Taylors' interest in the lawsuit over the Trust property and, therefore, preserved their standing. The Supreme Court went on to affirm that the land sale was void.

While the second appeal was pending, the Mailes filed the present lawsuit, also joining the Taylors' lawyers as defendants. The Mailes sought to set aside the original judgment on the basis that it was a result of fraud on the court. Namely, the Mailes argued that the Taylors and their attorneys fraudulently misrepresented the effect of the Disclaimer on the Taylors' status as beneficiaries in the first case.

The district court granted summary judgment, finding that the Mailes' lawsuit was barred by *res judicata*, but the court allowed a jury trial on the defendants' counterclaims for abuse of process and intentional interference with a prospective economic advantage. The jury assessed damages against the Mailes on those claims, and the district court denied the Mailes' motion for judgment notwithstanding the verdict. The court also granted an award of attorney fees against the Mailes on the basis that their lawsuit was frivolous. The Mailes now appeal to the Supreme Court from the summary judgment, the denial of judgment notwithstanding the verdict, and the award of attorney fees.

**COEUR D'ALENE, TUESDAY, MAY 1, 2012 AT 10:00 A.M.**

**IN THE SUPREME COURT OF THE STATE OF IDAHO**

**The ESTATE of BENJAMIN HOLLAND, )  
DECEASED, GREGORY HOLLAND, and )  
KATHLEEN HOLLAND )**

**Plaintiff-Appellants, )**

**v. )**

**METROPOLITAN PROPERTY and )  
CASUALTY INSURANCE COMPANY, and )  
METLIFE AUTO & HOME, )**

**Defendants-Respondent. )**

**Docket No. 38157**

Appeal from the District Court of the First Judicial District of the State of Idaho,  
in and for the County of Kootenai. Hon. John T. Mitchell, District Judge.

Kinzo H. Mihara, Coeur d'Alene, Idaho for Plaintiff-Appellants.

William J. Schroeder, Spokane, Washington for Defendants-Respondents.

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Plaintiff-appellants, Gregory Holland and Kathleen Holland ("Hollands"), appeal the district court's denial of their claim for attorney fees.

In October of 2009, Holland's son, Benjamin, passed away as a result of a single motor vehicle accident with an underinsured motorist. Hollands filed claims under Benjamin's underinsured motorist insurance policy and two other insurance policies owned by Hollands. All of the policies were issued by defendant-respondent Metropolitan Property and Casualty Insurance Company ("MetLife"). The parties disputed whether Benjamin was covered under the insurance policies owned by the Hollands, which resulted in the Hollands filing this action against MetLife.

The parties eventually settled all claims, except for the issue of attorney fees. Hollands maintained that MetLife owed them attorney fees because MetLife exceeded the statutory time period required for insurance companies to offer settlement. They also alleged that MetLife waived any objection to their request for attorney fees because MetLife did not comply with the Idaho Rules of Procedure.

The district court ruled against Hollands, holding that they were not entitled to attorney fees because they failed to offer adequate proof of loss for MetLife to reasonably investigate their claim and promptly offer settlement. The court also ruled that MetLife

did not waive any objection to Hollands's request for attorney fees. Hollands then moved for reconsideration, which the district court denied.

Upon appeal, Hollands claim that the district court erred in holding that they did not give MetLife enough information to reasonably investigate their claim. They also allege that the district court erred in finding that MetLife did not waive its objection to Hollands's request for attorney fees.

**COEUR D'ALENE, TUESDAY, MAY 1, 2012, AT 11:10 A.M.**

**IN THE SUPREME COURT OF THE STATE OF IDAHO**

**TERESA A. BLANKENSHIP,**

**Petitioner,**

**V.**

Docket No. 38426

**WASHINGTON TRUST BANK,**

### Respondent-Respondent on Appeal.

**WILLIAM MICHAEL BOWMAN, and  
ERIC BOWMAN,**

### **Intervenors-Appellants.**

Appeal from the District Court of the First Judicial District, State of Idaho,  
Bonner County. Hon. John T. Mitchell, District Judge.

James Theodore Diehl, Sandpoint, for appellants.

Lukins & Annis, P.S., Coeur d'Alene, for respondent.

Washington Trust Bank (the Bank) was the trustee of the trust created by Althea Bowman's last will and testament. Althea's four surviving children are the trust beneficiaries. Three of these beneficiaries contend that the Bank exceeded its authority by securing funds advanced to the fourth beneficiary with a deed of trust for a one-quarter undivided interest in a commercial property held by the trust. The district court granted summary judgment in favor of the Bank. Two of the complaining beneficiaries appeal.